

In Re: Application of: Presby, David, W.
An Endcap for a Corrugated Conduit

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REMARKS

This amendment, Paper No. 8, is submitted in response to the Final Official Action, Paper No. 7, dated January 13, 2004. Claims 1-20 were pending in the application. Claims 1, 6-9, 11-16, and 19 are rejected. Claims 2-5, 10, 17, 18 and 20 are objected to as being dependent on a rejected base claim but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Based on the claim amendments presented above, and the arguments presented below, respectfully requests reconsideration and reexamination of the application, and withdrawal of the rejections.

The Claims

35 USC § 102(b)

Burelle

Claims 1 and 7 stand rejected under 35 USC § 102(b) as being anticipated by US Patent No. 3,583,710 to Burelle.

With respect to claims 1 and 7, Examiner still maintains that the patent to Burelle discloses the recited end cap 3 or 3' for a conduit comprising an end piece 12, a circumferential skirt 10 attached around the end piece, and where the circumferential skirt comprises a plurality of connection tabs 11 spaced circumferentially around the skirt, wherein the tabs have angled faces, and there is at least one hole cut in the top of the end piece for receiving a pipe. Examiner cites Figure 7.

Claims 1 and 7 have been canceled and incorporated into claims 2 and 10 respectively. Claims 2 and 10 were cited in the Final Rejection as being objected to, but would be allowable if rewritten in independent form, including all limitations of the preceding claims. This has been done. Thus, the rejections based on Burelle have been overcome. Independent claims 2 and 10, as amended, contain elements not disclosed by Burelle, and claims 1 and 7 have been canceled. Claim 2 contains elements of the shape of the tab legs not

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disclosed in Burelle. Claim 10 contains spacer holes not disclosed in Burelle. Therefore, Applicant respectfully requests that the rejections be withdrawn. No new matter has been added.

Unke

Claims 1, 6, 7, 11-14, 16, and 19 stand rejected under 35 USC § 102(b) as being anticipated by US Patent No. 1,853,946 to Unke.

Examiner maintains that the patent to Unke discloses the recited end cap for a conduit comprising an end piece 14 having a rounded convex surface, a circumferential skirt 12 attached around the end piece and formed of the same material as the end piece, specifically metal, where the circumferential skirt comprises a plurality of connection tabs 17 spaced circumferentially around the skirt, wherein the tabs have angled faces and there is at least one hole 19 cut in the top of the end piece which is considered capable of receiving another pipe, flange 15 provides the end piece with a strengthened surface integral thereto, the skirt has integral structure shown as the ribs outside of the face 12 in Figure 6 which inherently would give the skirt added strength in that area of the tabs, and the strengthening structures are formed of the same material as the rest of the cap structure.

Claim 1 has been canceled. Applicant has amended claim 2, which was objected to, but would be allowable if rewritten in independent form including all of the limitations of the preceding claim, claim 1. The limitations of claim 1 and 2 have been combined into claim 2 which is now independent. Claim 2 now includes elements of the shape of the tab legs not disclosed in Unke. Therefore, Applicant respectfully requests that the rejection of claim 1 be withdrawn, as claim 1 is canceled. No new matter has been added.

Pursuant to a telephonic conversation with Examiner on Tuesday, May 25, 2004 claim 6 has been amended to depend from allowable claim 2 and is thus also allowable. Claim 2, as amended, and as indicated by Examiner, is allowable, and therefore claim 6, adding the materials from which the end cap is made, is now also allowable. Therefore, Applicant

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respectfully requests that the rejection of claim 6, as amended, be withdrawn. No new matter has been added.

With respect to claim 7, claim 7 has also been canceled, and combined with claim 10, which was allowable if rewritten in independent form. Claim 10 is now independent and contains the limitations of claims 1 and 7, including a ring, fingers and spacer holes not disclosed by Unke. Therefore, Applicant respectfully requests the rejection of claim 7 be withdrawn. No new matter has been added.

With respect to claims 11-14, pursuant to the telephone conversation with Examiner on Tuesday, May 25, 2004, claim 10, which was objected to, has now been made independent and contains elements including a ring, fingers and spacer holes not disclosed by Unke. Claims 11 and 13 depend from claim 10 and are thus also allowable. Therefore, Applicant respectfully requests withdrawal of the rejections of claims 11 and 13 as they now depend from an allowable independent claim. Claims 12 and 14 now depend from allowable claim 2 and are thus also allowable. Therefore, Applicant respectfully requests withdrawal of the rejections of claims 12 and 14 as they now depend from allowable claim 2. No new matter has been added.

With respect to claim 16, pursuant to the May 25 telephone conversation with Examiner, claim 16, that adds the limitation of strengthening means to the opening about each connection tab, depends from claim 12 that depends from now-allowable claim 2, and should thus also be allowable. Therefore, Applicant respectfully requests the rejection of claim 16 be withdrawn. No new matter has been added.

With respect to claim 19, pursuant to the May 25 telephone conversation with Examiner, claim 19, that adds the arcuate curvature of the end cap, has been amended to depend from now-allowable claim 10, and should thus also be allowable. Therefore, Applicant respectfully requests the rejection of claim 19 be withdrawn. No new matter has been added.

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Because all of the elements of Applicant's invention, as now claimed, are not disclosed in Unke, Applicant's invention is not anticipated by Unke. In addition, claims 6, 7, 11-14, 16 and 19 are dependent claims, dependent on an allowable base claim, they are thus also allowable. Therefore, Applicant respectfully requests that Examiner withdraw the rejections to the claims as amended. No new matter has been added.

35 USC § 103(a)

Burelle/Flimon

Claims 8, 9, and 11-15 stand rejected under 35 USC § 103(a) as being unpatentable over US Patent No. 3,583,710 to Burelle in view of US Patent No. 3,911,960 to Flimon.

Examiner maintains that the patent to Burelle discloses all of the recited structure with the exception of forming the ring of the end cap with a plurality of fingers hingedly attached to the ring and protruding toward the center of the opening and forming a strengthened end surface. Examiner further states that the patent to Flimon discloses the recited end cap comprising a skirt 2 extending from an end portion 10 which is formed with a thicker portion what would inherently provide more strength to the end surface and a plurality of fingers 12 that hingedly attach to the ring shaped end piece 3 to allow for the receiving of articles into the pipe. Examiner then asserts that it would have been obvious to one skilled in the art to modify the end cap of Burelle by providing a thicker portion to strengthen the end cap, and to provide a ring-shaped structure provided with fingers that hingedly attach to the ring to protect the inside of the tube as things are inserted into the end of the tube as suggested by Flimon.

Based on the May 25, 2004 telephonic conversation with Examiner, the ring and finger limitations of claim 8 have been incorporated into now-independent claim 10, which was allowable if re-written in independent form. Claim 8 has been canceled and incorporated into claim 10, as amended, and thus the rejection has been overcome. Therefore, Applicant respectfully requests that the rejection of claim 8 be withdrawn. Burelle and Flimon combined do not teach or suggest an end cap with at least one conduit-receiving hole, a ring around each

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hole, a plurality of fingers around the ring, and spacer holes separating the fingers to enhance flexibility and tear-resistance of the fingers. No new matter has been added.

Claim 9 has also been canceled, and its limitations included in new claim 21 that now depends from claim 10. Pursuant to the May 25 conversation with Examiner, the limitations in claim 9 could depend from now-independent claim 10. But, because a lower-number claim can not depend from a higher number claim, claim 9 was canceled, re-written and clarified in claim 21 which properly depends from claim 10. Therefore the rejection of claim 9 has been overcome and Applicant respectfully requests the rejection be withdrawn. In addition, Burelle and Flimon do not teach or suggest separated outer ends of the fingers that flex as a conduit is inserted into the / each conduit-receiving hole. No new matter has been added by the addition of claim 21.

Claims 11-15 are dependent from now-allowable base claims 2 and 10. Claims 11, 13 and 15 depend from claim 10 and claims 12 and 14 depend from claim 2. Therefore, as indicated by Examiner in the telephonic conversation of May 25, claims 11-15 should now be allowable as being dependent on allowable base claims 2 and 10. Thus, Applicant respectfully requests that the rejections of claims 11-15 be withdrawn.

Allowable Claims

Applicant appreciates Examiner's indication of allowable subject matter, and has amended the allowable claims, and those that depend from them. Based on allowable claims 2, 10 and 17 as now amended in independent form, Applicant believes the remaining claims 3-6, 12, 14, and 16 which depend from claim 2; claims 11, 13, 15, 19, 20 and 21 which depend from claim 10; and claims 18-20 which depend from claim 17 are also in condition for allowance. Claims 1, 7, 8 and 9 have been canceled.

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Conclusion

Applicant has amended the claims to contain elements not present in Burelle and Unke and has thus overcome the Anticipation rejections. In addition, Applicant has amended the claims based on Examiner's suggestion of allowable subject matter, and pursuant to a telephonic conversation with Examiner on May 25, 2004, to overcome the obviousness rejections of Burelle with Flimon. There are now three (3) independent claims (claims 2, 10 and 17) and 17 total claims (with claims 1, 7, 8, and 9 canceled and new claim 21). Thus, no additional claim fees are due.

Therefore, based on the claims as amended, the telephonic conversation with Examiner on May 25, and the arguments and explanations presented above, Applicant respectfully requests reconsideration of the Application, and withdrawal of the rejections such that the application is now in condition for allowance.

Applicant welcomes any further discussion with Examiner, if needed, to get the case allowed. Applicant's attorney, Kristin Kohler, can be reached at 1-231-275-3799 until June 1, 2004; at 1-808-554-0869 between June 1 and June 8; and at 301-203-5993 thereafter if Examiner wishes to discuss or provide any suggestions for allowable claim language. Finally, any fees due in connection with this response are included herewith.

Respectfully submitted,



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